UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,678	08/29/2003	Rafael Rivera	84,488	7758

38092 7590 12/07/2005

OFFICE OF COUNSEL, CODE 004
NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION
9500 MACARTHUR BLVD.
WEST BETHESDA, MD 20817

EXAMINER	
KEENAN, JAMES W	
ART UNIT	**PAPER NUMBER**
3652	

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/650,678	RIVERA ET AL.	
	Examiner	Art Unit	
	James Keenan	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 June 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. The disclosure is objected to because of the following informalities: paragraph [0014] refers to "wheels 60"; however paragraph [0015] recites "side portions 60 on which the wheels 48 ...".

Appropriate correction is required.

2. The amendment filed 9/15/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the recitation in paragraph [0012] that the cables are "fixedly" anchored constitutes new matter; nowhere in the original specification, claims, or drawings was such a feature disclosed.

Applicant is required to cancel the new matter in the reply to this Office Action.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 1, penultimate line, and claim 3, penultimate line, the recitation that the cables are "fixedly" anchored constitutes new matter, as noted above.

Also in claim 1, last line, the recitation that the cable means are used for "exclusively suspending" the rail means appears to be new matter, if it is meant that the cable means is the exclusive (i.e., sole) means of suspending the rail means. On the other hand, if it means that the cable means is used exclusively (i.e., only) for the purpose of suspending the rail means, this would not constitute new matter.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, last line, it is not clear if the cable means is the sole means of suspending the rail means or if the only purpose of the cable means is for suspending the rail means, as noted above.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-3, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over any of Weis (US 2002/0031419), Seaver et al (US 731231), or Hupkes (US 3,881,608), all previously cited, in view of Grathoff (US 5,238,346).

As noted in the previous Office action, Weis shows in figures 3 and 8 a container handling crane having non-pivotal trolleys 17, 18 riding on laterally spaced upper and lower rails 19, 20, respectively, of horizontal boom 12, such that trolleys pass each other on vertically spaced travel paths even when they are both loaded with a container 1. The boom is supported on wheeled frame 9,10 having laterally spaced legs the upper ends of which are interconnected by cable means 15 to the boom for horizontal suspension thereof. Seaver et al and Hupkes show similar structures.

None of the references show the cable means as being fixedly anchored to the frame means and used exclusively for suspending the rail means. Instead, the cable means are used for raising and lowering the boom, while other elements assist in supporting the boom (in Hupkes it is not clear if the cables raise the boom).

Grathoff shows a similar crane having cables 21 which support booms 2, 22. These cables are fixedly anchored to mast 20 (frame means), at least to whatever extent this is considered to have patentable weight in view of the new matter objection. Although boom 2 is pivotal relative to the frame, this is done by boom lifter 19 rather than the cables. Thus, the only purpose of the cables is to support the booms.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified Weis, Hupkes, or Seaver et al such that the cable means was fixedly anchored to the frame means and was used for exclusively suspending the rail means, as shown by Grathoff, as this would simply be an alternative and art recognized use for the cable means, the use of which in the apparatus of Weis, Hupkes, or Seaver et al would neither require undue experimentation nor produce unexpected results.

10. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of Weis, Hupkes, or Seaver et al in view of Grathoff, as applied to claims 1-3 above, and further in view of Albus (US 4,883,184, previously cited).

The base references as modified do not show pivotally displaceable spreader means on both trolleys, although Weis and Hupkes do show spreaders for handling containers, while Hupkes additionally shows one (upper) trolley to be pivotal.

Albus shows a handling device on the same type of crane in the same environment (col. 1, lines 20-25), wherein the device is capable of rotation about a vertical axis for better positioning and control of the load.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified any of the base references Weis, Hupkes, or Seaver et al to include a pivotally displaceable load handler on the trolleys, as shown by Albus, as this would allow better positioning and control of the loads.

11. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Keenan
Primary Examiner
Art Unit 3652

jwk
12/01/05